

IC 34-57

ARTICLE 57. ARBITRATION AND ALTERNATIVE DISPUTE RESOLUTION

IC 34-57-1

Chapter 1. Arbitration: Generally

IC 34-57-1-1

Applicability of chapter

Sec. 1. This chapter applies to any controversy existing between two (2) or more parties, which might be the subject of a suit at law, except as otherwise provided in section 2 of this chapter.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-2

Real estate claims

Sec. 2. (a) Except as provided in subsection (b), no submission to arbitration shall be made respecting the claim of any person to any estate in fee or for life to any real estate.

(b) The following controversies may be submitted to arbitration:

- (1) A claim to an interest in a term for years, or for one (1) year or less, in real estate.
- (2) Respecting the partition of lands between joint-tenants or tenants-in-common.
- (3) Concerning the boundaries of lands.
- (4) Concerning the assignment of dower.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-3

Persons who may agree to arbitrate

Sec. 3. All persons, except minors and mentally incompetent persons, may, by an instrument in writing, submit a controversy for arbitration by one (1) or more persons.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-4

Arbitrators mutually chosen

Sec. 4. The arbitrator is mutually chosen by the parties to the controversy.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-5

Submissions

Sec. 5. The parties may agree that each submission be made by a rule of any court of record designated in the instrument.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-6

Execution of bonds; conditions

Sec. 6. When an agreement is made according to sections 1

through 5 of this chapter, the parties shall execute bonds. The bonds must contain:

- (1) a condition to abide and faithfully perform the award or umpirage;
- (2) the name of the arbitrator or arbitrators;
- (3) the matters submitted to arbitration for determination; and
- (4) an agreement to make the submission a rule of the court designated in the agreement of submission.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-7

Time and place of arbitration; notice

Sec. 7. As soon as the bonds are delivered, either party may appoint a time and place for the arbitrator to meet, by giving the opposite party and the arbitrator not less than ten (10) days written notice.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-8

Arbitrator's oath

Sec. 8. Before hearing any testimony, the arbitrator or arbitrators shall swear faithfully and fairly to:

- (1) hear and examine the matters in controversy; and
- (2) make a just award according to the best of the arbitrator's understanding.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-9

Administration of oath

Sec. 9. The oath may be administered to the arbitrator and witnesses by any person authorized to administer oaths.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-10

Hearing

Sec. 10. As soon as the arbitrator is ready to proceed, the parties may exhibit their proofs. All the arbitrators must meet together, and hear the allegations of the parties, but the award of a majority is valid, unless otherwise required by the submission.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-11

Award

Sec. 11. The award must be:

- (1) in writing;
- (2) signed by the arbitrator or arbitrators who agreed to it; and
- (3) attested by a subscribing witness.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-12

Copy of award and costs; delivery to parties

Sec. 12. One (1) of the arbitrators shall deliver a true copy of the award and of the costs to:

- (1) each of the parties; or
 - (2) the last usual place of residence of a party;
- not later than fifteen (15) days after the award is signed.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-13**Refusal to comply with award**

Sec. 13. If either of the parties fails or refuses to comply with the award, the other party may file the award, together with the agreement of submission, in the court named in the submission.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-14**Entry of submission agreement and award on record; rule against adverse party**

Sec. 14. (a) If the party seeking compliance proves the submission, the award, and that a copy of the award was duly served on the party against whom the rule is asked, the court shall:

- (1) enter the submission and the award as matters of record; and
- (2) grant a rule on the record against the adverse party, to show cause why judgment should not be rendered by the court upon the award.

(b) The submission may be proved by:

- (1) a subscribing witness to the submission; or
- (2) in case of death, insanity, or absence out of the state of the subscribing witness, as in other cases of a written instrument.

(c) The award may be proved:

- (1) as a submission is proved under subsection (b); or
- (2) by one (1) or more of the arbitrators.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-15**Confirmation of award by court**

Sec. 15. Upon the return of the rule the court shall confirm the award and render judgment upon it, unless the award is vacated, modified, or postponed, as provided in this chapter. The judgment has the same force and effect as judgments in other cases.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-16**Hearing and determination on court rule against adverse party**

Sec. 16. (a) If the rule has been served ten (10) days or more on the adverse party before the time set for showing cause against the award, the court may proceed to examine and determine the rule in the adverse party's absence.

(b) If the adverse party appears, the court shall proceed to hear and determine the grounds alleged against the award, if there are any.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-17

Grounds against rendition of judgment on award

Sec. 17. In all cases where an award is presented to any court of record for a judgment to be entered upon the award, whether the reference was made by submission of parties, or by rule of court, the adverse party may show cause against the rendition of the judgment on any of the following grounds:

- (1) The award or umpirage was obtained by fraud, corruption, partiality, or other undue means, or the arbitrator showed evidence of partiality or corruption.
- (2) The arbitrator was guilty of misconduct in:
 - (A) refusing to postpone the hearing upon sufficient cause shown;
 - (B) refusing to hear evidence material and pertinent to the controversy; or
 - (C) any other misbehavior by which the rights of any party were prejudiced.
- (3) The arbitrator exceeded the arbitrator's powers, or so imperfectly executed them that a mutual, final, and definite award on the subject-matter submitted was not made.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-18

Modification or correction of award

Sec. 18. Any party to a submission may move the court to modify or correct the award in the following cases:

- (1) When there is an evident miscalculation of figures, or an evident mistake in the description of any person, thing, or property referred to or mentioned in the award.
- (2) When the arbitrator has awarded upon a matter that was not submitted, and does not affect the merits of the decision upon the matters which were submitted.
- (3) When the award is imperfect in some matter of form, that:
 - (A) does not affect the controversy; and
 - (B) if it had been a verdict, the defect could have been properly amended or disregarded by the court.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-19

Hearing on motion to invalidate or sustain award

Sec. 19. (a) The court shall hear the proofs and allegations of the parties, to invalidate and sustain the award.

(b) The court shall:

- (1) confirm the award;
- (2) modify and correct the award in the cases prescribed in section 18 of this chapter so as to:
 - (A) effect the intent of the award; and
 - (B) promote justice between the parties; or

(3) vacate the award for any of the causes specified in this chapter at the costs of the parties seeking to enforce the award.

(c) If the award is confirmed under subsection (b)(1), or modified under subsection (b)(2), the court shall render judgment on the original or corrected award.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-20

Judgments confirming awards

Sec. 20. If the award is confirmed, judgment shall be given in favor of any party to whom any sum of money or damages has been awarded that the party recover the amount awarded. If the award orders any act to be done by either party; judgment shall be entered that the act be done according to the award.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-21

Taxation of costs

Sec. 21. (a) The costs of the proceedings in court shall be taxed as in suits.

(b) If no provision for the fees and expenses of the arbitration is made in the award, the court shall make allowances for costs.

(c) However, if:

(1) there was a suit pending before the submission; and

(2) the costs of the suit were not noticed by the arbitrator;

the court shall not allow or tax any of the costs of the suit incurred before the submission.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-22

Judgment requiring performance of act; enforcement

Sec. 22. When the court enters a judgment on award that requires any party to perform any act other than the payment of money, the court has authority to enforce the performance by attachment, until the terms of the judgment have been complied with.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-23

Pending litigation; consent to arbitrate

Sec. 23. If the subject matter of any suit pending in any court, could originally have been submitted to arbitration, the parties to the suit, their agent, or attorney may consent, by rule of court, to refer the matter in controversy to certain persons mutually chosen by the parties in an open court.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-24

Referees

Sec. 24. The referees, if required by the parties, shall:

(1) be sworn in open court or before any officer authorized to

administer oaths, faithfully and impartially to investigate, adjust, and report the matters submitted;

(2) proceed to investigate matters according to the submission of the parties; and

(3) report to the court at a time agreed to by the parties in the rule of reference.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-25

Referee's report

Sec. 25. When the report is returned under the signatures of a majority of the referees, the report shall be entered on the order book, and shall have the same effect as the verdict of a jury.

As added by P.L.1-1998, SEC.53.

IC 34-57-1-26

Judgment on referee's report

Sec. 26. Either party may move the court for judgment on the report. If no sufficient cause is shown to the contrary, judgment shall be rendered on the report in like manner and with like force and effect as if rendered upon the verdict of a jury.

As added by P.L.1-1998, SEC.53.